

## **IC 6-2.5-5**

### **Chapter 5. Exempt Transactions of a Retail Merchant**

## **IC 6-2.5-5-1**

### **Animals, feed, seed, and chemicals**

Sec. 1. Transactions involving animals, feed, seed, plants, fertilizer, insecticides, fungicides, and other tangible personal property are exempt from the state gross retail tax if:

- (1) the person acquiring the property acquires it for his direct use in the direct production of food and food ingredients or commodities for sale or for further use in the production of food and food ingredients or commodities for sale; and
- (2) the person acquiring the property is occupationally engaged in the production of food and food ingredients or commodities which he sells for human or animal consumption or uses for further food and food ingredient or commodity production.

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.257-2003, SEC.21.*

## **IC 6-2.5-5-2**

### **Agricultural machinery, tools, and equipment**

Sec. 2. (a) Transactions involving agricultural machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for his direct use in the direct production, extraction, harvesting, or processing of agricultural commodities.

(b) Transactions involving agricultural machinery or equipment are exempt from the state gross retail tax if:

- (1) the person acquiring the property acquires it for use in conjunction with the production of food and food ingredients or commodities for sale;
- (2) the person acquiring the property is occupationally engaged in the production of food or commodities which he sells for human or animal consumption or uses for further food and food ingredients or commodity production; and
- (3) the machinery or equipment is designed for use in gathering, moving, or spreading animal waste.

*As added by Acts 1980, P.L.52, SEC.1. Amended by Acts 1981, P.L.80, SEC.1; P.L.257-2003, SEC.22.*

## **IC 6-2.5-5-3**

### **Exemption; acquisition for direct use in direct production**

Sec. 3. (a) For purposes of this section:

- (1) the retreading of tires shall be treated as the processing of tangible personal property; and
- (2) commercial printing shall be treated as the production and manufacture of tangible personal property.

(b) Transactions involving manufacturing machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for direct use in the direct

production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property. *As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.76-1985, SEC.9; P.L.78-1989, SEC.4; P.L.192-2002(ss), SEC.50.*

#### **IC 6-2.5-5-4**

##### **Property for use in producing machinery, tools, or equipment**

Sec. 4. Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for his direct use in the direct production of the machinery, tools, or equipment described in section 2 or 3 of this chapter.

*As added by Acts 1980, P.L.52, SEC.1.*

#### **IC 6-2.5-5-5 Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

#### **IC 6-2.5-5-5.1**

##### **Exemption; acquisition for direct consumption in direct production**

Sec. 5.1. (a) As used in this section, "tangible personal property" includes electrical energy, natural or artificial gas, water, steam, and steam heat.

(b) Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for direct consumption as a material to be consumed in the direct production of other tangible personal property in the person's business of manufacturing, processing, refining, repairing, mining, agriculture, horticulture, floriculture, or arboriculture. This exemption includes transactions involving acquisitions of tangible personal property used in commercial printing.

*As added by Acts 1981, P.L.63, SEC.6. Amended by P.L.23-1986, SEC.2; P.L.78-1989, SEC.5; P.L.192-2002(ss), SEC.51.*

#### **IC 6-2.5-5-6**

##### **Exemption; acquisition for incorporation into product for sale**

Sec. 6. Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for incorporation as a material part of other tangible personal property which the purchaser manufactures, assembles, refines, or processes for sale in his business. This exemption includes transactions involving acquisitions of tangible personal property used in commercial printing.

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.78-1989, SEC.6; P.L.192-2002(ss), SEC.52.*

#### **IC 6-2.5-5-7**

##### **Materials used in construction business, public street, or utility service**

Sec. 7. Transactions involving tangible personal property are exempt from the state gross retail tax if:

- (1) the person acquiring the property is in the construction business;
- (2) the person acquiring the property acquires it for incorporation as a material or integral part of a public street or of a public water, sewage, or other utility service;
- (3) the public street or public utility service into which the property is to be incorporated is required under a subdivision plat, approved and accepted by the appropriate Indiana political subdivision; and
- (4) the public street or public utility is to be publicly maintained after its completion.

*As added by Acts 1980, P.L.52, SEC.1.*

#### **IC 6-2.5-5-8**

##### **"New motor vehicle"; property acquired for resale, rental, or leasing in course of business**

Sec. 8. (a) As used in this section, "new motor vehicle" has the meaning set forth in IC 9-13-2-111.

(b) Transactions involving tangible personal property other than a new motor vehicle are exempt from the state gross retail tax if the person acquiring the property acquires it for resale, rental, or leasing in the ordinary course of the person's business without changing the form of the property.

(c) The following transactions involving a new motor vehicle are exempt from the state gross retail tax:

(1) A transaction in which a person that has a franchise in effect at the time of the transaction for the vehicle trade name, trade or service mark, or related characteristics acquires a new motor vehicle for resale, rental, or leasing in the ordinary course of the person's business.

(2) A transaction in which a person that is a franchisee appointed by a manufacturer or converter manufacturer licensed under IC 9-23 acquires a new motor vehicle that has at least one (1) trade name, service mark, or related characteristic as a result of modification or further manufacture by the manufacturer or converter manufacturer for resale, rental, or leasing in the ordinary course of the person's business.

(3) A transaction in which a person acquires a new motor vehicle for rental or leasing in the ordinary course of the person's business.

(d) The rental or leasing of accommodations to a promoter by a political subdivision (including a capital improvement board) or the state fair commission is not exempt from the state gross retail tax, if the rental or leasing of the property by the promoter is exempt under IC 6-2.5-4-4.

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.93-1987, SEC.3; P.L.20-1990, SEC.8; P.L.27-2003, SEC.1.*

#### **IC 6-2.5-5-9**

##### **Returnable containers; nonreturnable packaging**

Sec. 9. (a) As used in this section, "returnable containers" means containers customarily returned by the buyer of the contents for reuse as containers.

(b) Sales of returnable containers are exempt from the state gross retail tax if the transaction constitutes selling at retail as defined in IC 6-2.5-4-1 and if the returnable containers contain contents.

(c) Sales of returnable containers are exempt from the state gross retail tax if the containers are transferred empty for the purpose of refilling.

(d) Sales of wrapping material and empty containers are exempt from the state gross retail tax if the person acquiring the material or containers acquires them for use as nonreturnable packages for selling the contents that he adds.

*As added by Acts 1980, P.L.52, SEC.1.*

#### **IC 6-2.5-5-10**

##### **Electric or steam utilities; production plant or power production expenses**

Sec. 10. Transactions involving tangible personal property are exempt from the state gross retail tax, if:

(1) the property is classified as production plant or power production expenses, according to the uniform system of accounts which was adopted and prescribed for the utility by the Indiana utility regulatory commission; and

(2) the person acquiring the property is:

(A) a public utility that furnishes or sells electrical energy, steam, or steam heat in a retail transaction described in IC 6-2.5-4-5; or

(B) a power subsidiary (as defined in IC 6-2.5-4-5(a)) that furnishes or sells electrical energy, steam, or steam heat to a public utility described in clause (A).

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.23-1988, SEC.8; P.L.71-1993, SEC.6.*

#### **IC 6-2.5-5-11**

##### **Gas utilities; production or storage plants and expenses**

Sec. 11. Transactions involving tangible personal property are exempt from the state gross retail tax, if:

(1) the property is classified as production plant, storage plant, production expenses, or underground storage expenses according to the uniform system of accounts, which was adopted and prescribed for the utility by the Indiana utility regulatory commission; and

(2) the person acquiring the property is a public utility that furnishes or sells natural or artificial gas in a retail transaction described in IC 6-2.5-4-5.

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.23-1988, SEC.9; P.L.71-1993, SEC.7.*

#### **IC 6-2.5-5-12**

**Water and wastewater utilities; plants and expenses**

Sec. 12. (a) Transactions involving tangible personal property are exempt from the state gross retail tax, if:

- (1) the property is classified as source of supply plant and expenses, the pumping plant and expenses, or water treatment plant and expenses according to the uniform system of accounts which was adopted and prescribed for the utility by the Indiana utility regulatory commission; and
- (2) the person acquiring the property is a public utility that furnishes or sells water in a retail transaction described in IC 6-2.5-4-5.

(b) Transactions involving tangible personal property are exempt from the state gross retail tax if:

- (1) the property is classified as collection plant and expenses, treatment and disposal plant and expenses, or system pumping plant and expenses; and
- (2) the person acquiring the property is a public utility that collects, treats, or processes wastewater.

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.23-1988, SEC.10; P.L.71-1993, SEC.8; P.L.91-1995, SEC.1.*

**IC 6-2.5-5-13****Intrastate telecommunication services; equipment**

Sec. 13. Transactions involving tangible personal property are exempt from the state gross retail tax, if:

- (1) the property is:
  - (A) classified as central office equipment, station equipment or apparatus, station connection, wiring, or large private branch exchanges according to the uniform system of accounts which was adopted and prescribed for the utility by the Indiana utility regulatory commission; or
  - (B) mobile telecommunications switching office equipment, radio or microwave transmitting or receiving equipment, including, without limitation, towers, antennae, and property that perform a function similar to the function performed by any of the property described in clause (A); and
- (2) the person acquiring the property furnishes or sells intrastate telecommunication service in a retail transaction described in IC 6-2.5-4-6.

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.23-1988, SEC.11; P.L.71-1993, SEC.9.*

**IC 6-2.5-5-14****Public utilities; acquisitions of personal property**

Sec. 14. (a) Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property is:

- (1) a municipally owned utility;
- (2) a utility owned or operated by a special district; or
- (3) a public utility owned or operated by a not-for-profit

corporation incorporated under:

- (A) the Indiana General Not for Profit Corporation Act (Acts 1935, Chapter 157, as amended), notwithstanding its repeal;
- (B) the Indiana Not-for-Profit Corporation Act of 1971 (IC 23-7-1.1), notwithstanding its repeal; or
- (C) IC 23-17.

(b) The term "public utility owned or operated by a not-for-profit corporation" does not include those public utilities incorporated under Acts 1935, chapter 157, as amended, and which are owned or operated by local district rural electric membership corporations.

*As added by Acts 1980, P.L.52, SEC.1. Amended by Acts 1980, P.L.53, SEC.1; P.L.179-1991, SEC.10.*

### **IC 6-2.5-5-15**

#### **Repealed**

*(Repealed by P.L.81-2004, SEC.60.)*

### **IC 6-2.5-5-15.5**

#### **Motor vehicles; intrafamilial title transfers**

Sec. 15.5. A transaction involving a motor vehicle is exempt from the state gross retail tax, if:

- (1) the transaction consists of changing the motor vehicle title to add or delete an individual; and
- (2) the individual being added or deleted is the spouse, child, grandparent, parent, or sibling of an owner.

*As added by P.L.73-1993, SEC.1.*

### **IC 6-2.5-5-16**

#### **State or local government acquisitions**

Sec. 16. Transactions involving tangible personal property, public utility commodities, and public utility service are exempt from the state gross retail tax, if the person acquiring the property, commodities, or service:

- (1) is the state of Indiana, an agency or instrumentality of the state, a political subdivision of the state, or an agency or instrumentality of a political subdivision of the state, including a county solid waste management district or a joint solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal); and
- (2) predominantly uses the property, commodities, or service to perform its governmental functions.

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.25-1991, SEC.3; P.L.1-1996, SEC.45.*

### **IC 6-2.5-5-17**

#### **Newspapers**

Sec. 17. Sales of newspapers are exempt from the state gross retail tax.

*As added by Acts 1980, P.L.52, SEC.1.*

#### **IC 6-2.5-5-18**

##### **Medical equipment, supplies, and devices**

Sec. 18. (a) Sales of durable medical equipment, prosthetic devices, artificial limbs, orthopedic devices, dental prosthetic devices, eyeglasses, contact lenses, and other medical supplies and devices are exempt from the state gross retail tax, if the sales are prescribed by a person licensed to issue the prescription.

(b) Rentals of durable medical equipment and other medical supplies and devices are exempt from the state gross retail tax, if the rentals are prescribed by a person licensed to issue the prescription.

(c) Sales of hearing aids are exempt from the state gross retail tax if the hearing aids are fitted or dispensed by a person licensed or registered for that purpose. In addition, sales of hearing aid parts, attachments, or accessories are exempt from the state gross retail tax. For purposes of this subsection, a hearing aid is a device which is worn on the body and which is designed to aid, improve, or correct defective human hearing.

(d) Sales of colostomy bags, ileostomy bags, and the medical equipment, supplies, and devices used in conjunction with those bags are exempt from the state gross retail tax.

(e) Sales of equipment and devices used to administer insulin are exempt from the state gross retail tax.

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.257-2003, SEC.23.*

#### **IC 6-2.5-5-19**

##### **Drugs; insulin; oxygen; blood or blood plasma**

Sec. 19. (a) As used in this section, "legend drug" means a drug as defined in IC 6-2.5-1-17 that is also a legend drug for purposes of IC 16-18-2-199.

(b) As used in this section, "nonlegend drug" means a drug (as defined in IC 6-2.5-1-17) that is not a legend drug.

(c) Sales of legend drugs and sales of nonlegend drugs are exempt from the state gross retail tax if:

(1) a registered pharmacist makes the sale upon the prescription of a practitioner who is licensed to prescribe, dispense, and administer those drugs to human beings or animals in the course of his professional practice; or

(2) the licensed practitioner makes the sales.

(d) Sales of a nonlegend drug are exempt from the state gross retail tax, if:

(1) the nonlegend drug is dispensed upon an original prescription or a drug order (as defined in IC 16-42-19-3); and

(2) the ultimate user of the drug is a person confined to a hospital or health care facility.

(e) Sales of insulin, oxygen, blood, or blood plasma are exempt from the state gross retail tax, if the purchaser purchases the insulin, oxygen, blood, or plasma for medical purposes.

(f) Sales of drugs, insulin, oxygen, blood, and blood plasma are exempt from the state gross retail tax if:

- (1) the purchaser is a practitioner licensed to prescribe, dispense, and administer drugs to human beings or animals; and
- (2) the purchaser buys the items for:
  - (A) direct consumption in his practice; or
  - (B) resale to a patient that the practitioner is treating, in the case of sales of legend or nonlegend drugs.

*As added by Acts 1980, P.L.52, SEC.1. Amended by Acts 1981, P.L.81, SEC.1; P.L.19-1994, SEC.4; P.L.257-2003, SEC.24.*

#### **IC 6-2.5-5-19.5**

##### **Drug samples**

Sec. 19.5. (a) For purposes of this section, "drug sample" means a legend drug (as defined by IC 16-18-2-199) or a drug composed wholly or partly of insulin or an insulin analog that is furnished without charge.

(b) Transactions involving the following are exempt from the state gross retail tax:

- (1) A drug sample and the packaging and literature for a drug sample.
- (2) Tangible personal property that will be used as a drug sample or will be processed, manufactured, or incorporated into:
  - (A) a drug sample; or
  - (B) the packaging or literature for a drug sample.

*As added by P.L.61-1997, SEC.1.*

#### **IC 6-2.5-5-20**

##### **"Food and food ingredients for human consumption"**

Sec. 20. (a) Sales of food and food ingredients for human consumption are exempt from the state gross retail tax.

(b) For purposes of this section, the term "food and food ingredients for human consumption" includes the following items if sold without eating utensils provided by the seller:

- (1) Food sold by a seller whose proper primary NAICS classification is manufacturing in sector 311, except subsector 3118 (bakeries).
- (2) Food sold in an unheated state by weight or volume as a single item.
- (3) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

(c) Except as otherwise provided by subsection (b), for purposes of this section, the term "food and food ingredients for human consumption" does not include:

- (1) candy;
- (2) alcoholic beverages;
- (3) soft drinks;
- (4) food sold through a vending machine;
- (5) food sold in a heated state or heated by the seller;
- (6) two (2) or more food ingredients mixed or combined by the

seller for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(7) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.86-1989, SEC.1; P.L.257-2003, SEC.25.*

#### **IC 6-2.5-5-21**

##### **Exemption; sales of food and food ingredients by nonprofit entities to confined or hospitalized persons**

Sec. 21. (a) For purposes of this section, "private benefit or gain" does not include reasonable compensation paid to an employee for work or services actually performed.

(b) Sales of food and food ingredients are exempt from the state gross retail tax if:

(1) the seller meets the filing requirements under subsection (d) and is any of the following:

(A) A fraternity, a sorority, or a student cooperative housing organization that is connected with and under the supervision of a college, a university, or any other educational institution if no part of its income is used for the private benefit or gain of any member, trustee, shareholder, employee, or associate.

(B) Any:

- (i) institution;
- (ii) trust;
- (iii) group;
- (iv) united fund;
- (v) affiliated agency of a united fund;
- (vi) nonprofit corporation;
- (vii) cemetery association; or
- (viii) organization;

that is organized and operated exclusively for religious, charitable, scientific, literary, educational, or civic purposes if no part of its income is used for the private benefit or gain of any member, trustee, shareholder, employee, or associate.

(C) A group, an organization, or a nonprofit corporation that is organized and operated for fraternal or social purposes, or as a business league or association, and not for the private benefit or gain of any member, trustee, shareholder, employee, or associate.

(D) A:

- (i) hospital licensed by the state department of health;
- (ii) shared hospital services organization exempt from

federal income taxation by Section 501(c)(3) or 501(e) of the Internal Revenue Code;

(iii) labor union;

(iv) church;

(v) monastery;

(vi) convent;

(vii) school that is a part of the Indiana public school system;

(viii) parochial school regularly maintained by a recognized religious denomination; or

(ix) trust created for the purpose of paying pensions to members of a particular profession or business who created the trust for the purpose of paying pensions to each other;

if the taxpayer is not organized or operated for private profit or gain;

(2) the purchaser is a person confined to his home because of age, sickness, or infirmity;

(3) the seller delivers the food and food ingredients to the purchaser; and

(4) the delivery is prescribed as medically necessary by a physician licensed to practice medicine in Indiana.

(c) Sales of food and food ingredients are exempt from the state gross retail tax if the seller is an organization described in subsection (b)(1), and the purchaser is a patient in a hospital operated by the seller.

(d) To obtain the exemption provided by this section, a taxpayer must file an application for exemption with the department:

(1) before January 1, 2003, under IC 6-2.1-3-19 (repealed); or

(2) not later than one hundred twenty (120) days after the taxpayer's formation.

In addition, the taxpayer must file an annual report with the department on or before the fifteenth day of the fifth month following the close of each taxable year. If a taxpayer fails to file the report, the department shall notify the taxpayer of the failure. If within sixty (60) days after receiving such notice the taxpayer does not provide the report, the taxpayer's exemption shall be canceled. However, the department may reinstate the taxpayer's exemption if the taxpayer shows by petition that the failure was due to excusable neglect.

*As added by Acts 1980, P.L.52, SEC.1. Amended by Acts 1981, P.L.77, SEC.2; P.L.192-2002(ss), SEC.53; P.L.257-2003, SEC.26.*

#### **IC 6-2.5-5-21.5**

##### **Medically necessary food**

Sec. 21.5. Sales of food and food ingredients prescribed as medically necessary by a physician licensed to practice medicine in Indiana are exempt from the state gross retail tax if:

(1) a registered pharmacist makes the sale upon the prescription of a practitioner who is licensed to practice medicine in Indiana;

or

(2) the licensed practitioner makes the sale of the food and food ingredients described in this section.

*As added by P.L.19-1994, SEC.5. Amended by P.L.257-2003, SEC.27.*

#### **IC 6-2.5-5-22**

##### **Exemption; sales of meals; schools; fraternities; sororities; student cooperatives**

Sec. 22. (a) Sales of school meals are exempt from the state gross retail tax if:

- (1) the seller is a school containing students in any grade, one (1) through twelve (12);
- (2) the purchaser is one (1) of those students or a school employee; and
- (3) the school furnishes the food and food ingredients on its premises.

(b) Sales of food and food ingredients by not-for-profit colleges or universities are exempt from the state gross retail tax, if the purchaser is a student at the college or university.

(c) Sales of meals after December 31, 1976, by a fraternity, sorority, or student cooperative housing organization described in section 21(b)(1)(A) of this chapter are exempt from the state gross retail tax, if the purchaser:

- (1) is a member of the fraternity, sorority, or student cooperative housing organization; and
- (2) is enrolled in the college, university, or educational institution with which the fraternity, sorority, or student cooperative housing organization is connected and by which it is supervised.

*As added by Acts 1980, P.L.52, SEC.1. Amended by Acts 1980, P.L.49, SEC.2; Acts 1981, P.L.77, SEC.3; P.L.192-2002(ss), SEC.54; P.L.257-2003, SEC.28.*

#### **IC 6-2.5-5-23**

##### **School building materials**

Sec. 23. Transactions involving tangible personal property are exempt from the state gross retail tax, if the person acquiring the property acquires it for incorporation into a school building which is being constructed by a lessor corporation in accordance with a lease executed under IC 21-5-11 or IC 21-5-12.

*As added by Acts 1980, P.L.52, SEC.1.*

#### **IC 6-2.5-5-24**

##### **Exemption; sales to United States government; commercial printing; receipt or collection of taxes; earnings on United States bonds; transactions with another state or foreign country**

Sec. 24. (a) Transactions are exempt from the state gross retail tax to the extent that the gross retail income from those transactions is derived from gross receipts that are:

- (1) derived from sales to the United States government, to the extent the state is prohibited by the Constitution of the United States from taxing that gross income;
  - (2) derived from commercial printing that results in printed materials, excluding the business of photocopying, that are shipped, mailed, or delivered outside Indiana;
  - (3) United States or Indiana taxes received or collected as a collecting agent explicitly designated as a collecting agent for a tax by statute for the state or the United States;
  - (4) collections by a retail merchant of a retailer's excise tax imposed by the United States if:
    - (A) the tax is imposed solely on the sale at retail of tangible personal property;
    - (B) the tax is remitted to the appropriate taxing authority; and
    - (C) the retail merchant collects the tax separately as an addition to the price of the property sold;
  - (5) collections of a manufacturer's excise tax imposed by the United States on motor vehicles, motor vehicle bodies and chassis, parts and accessories for motor vehicles, tires, tubes for tires, or tread rubber and laminated tires, if the excise tax is separately stated by the collecting taxpayer as either an addition to or an inclusion in the price of the property sold; or
  - (6) amounts represented by an encumbrance of any kind on tangible personal property received by a retail merchant in reciprocal exchange for tangible personal property of like kind.
- (b) Transactions are exempt from the state gross retail tax to the extent that the gross retail income from those transactions is derived from gross receipts that are:
- (1) interest or other earnings paid on bonds or other securities issued by the United States, to the extent the Constitution of the United States prohibits the taxation of that gross income; or
  - (2) derived from business conducted in commerce between the state and either another state or a foreign country, to the extent the state is prohibited from taxing that gross income by the Constitution of the United States.

*As added by Acts 1980, P.L.52, SEC.1. Amended by Acts 1981, P.L.77, SEC.4; P.L.78-1989, SEC.7; P.L.192-2002(ss), SEC.55.*

#### **IC 6-2.5-5-25**

##### **Exemption; acquisition for fund raising by nonprofit entity**

Sec. 25. (a) Transactions involving tangible personal property or service are exempt from the state gross retail tax, if the person acquiring the property or service:

- (1) is an organization described in section 21(b)(1) of this chapter;
- (2) primarily uses the property or service to carry on or to raise money to carry on its not-for-profit purpose; and
- (3) is not an organization operated predominantly for social purposes.

(b) Transactions occurring after December 31, 1976, and involving tangible personal property or service are exempt from the state gross retail tax, if the person acquiring the property or service:

(1) is a fraternity, sorority, or student cooperative housing organization described in section 21(b)(1)(A) of this chapter; and

(2) uses the property or service to carry on its ordinary and usual activities and operations as a fraternity, sorority, or student cooperative housing organization.

*As added by Acts 1980, P.L.52, SEC.1. Amended by Acts 1980, P.L.49, SEC.3; Acts 1981, P.L.77, SEC.5; P.L.192-2002(ss), SEC.56.*

#### **IC 6-2.5-5-26**

**Exemption; nonprofit entities; sales for less than 30 days each year; sale for educational, cultural, or religious purpose; sale for professional or workforce education improvement purposes**

Sec. 26. (a) Sales of tangible personal property are exempt from the state gross retail tax, if:

(1) the seller is an organization that is described in section 21(b)(1) of this chapter;

(2) the organization makes the sale to make money to carry on a not-for-profit purpose; and

(3) the organization does not make those sales during more than thirty (30) days in a calendar year.

(b) Sales of tangible personal property are exempt from the state gross retail tax, if:

(1) the seller is an organization described in section 21(b)(1) of this chapter;

(2) the seller is not operated predominantly for social purposes;

(3) the property sold is designed and intended primarily either for the organization's educational, cultural, or religious purposes, or for improvement of the work skills or professional qualifications of the organization's members; and

(4) the property sold is not designed or intended primarily for use in carrying on a private or proprietary business.

(c) The exemption provided by this section does not apply to an accredited college or university's sales of books, stationery, haberdashery, supplies, or other property.

*As added by Acts 1980, P.L.52, SEC.1. Amended by Acts 1981, P.L.77, SEC.6; P.L.192-2002(ss), SEC.57.*

#### **IC 6-2.5-5-27**

**Public transportation; acquisitions**

Sec. 27. Transactions involving tangible personal property and services are exempt from the state gross retail tax, if the person acquiring the property or service directly uses or consumes it in providing public transportation for persons or property.

*As added by Acts 1980, P.L.52, SEC.1.*

#### **IC 6-2.5-5-27.5**

**Rolling stock**

Sec. 27.5. (a) For purposes of this section, "rolling stock" means rail transportation equipment, including locomotives, box cars, flatbed cars, hopper cars, tank cars, and freight cars of any type or class.

(b) Transactions involving the following tangible personal property are exempt from the gross retail tax:

(1) Rolling stock that is purchased or leased by a person.

(2) All spare, replacement, and rebuilding parts or accessories, components, materials, or supplies, including lubricants and fuels, for rolling stock described in subdivision (1).

*As added by P.L.61-1997, SEC.2.*

**IC 6-2.5-5-28****Repealed**

*(Repealed by P.L.11-1984, SEC.4.)*

**IC 6-2.5-5-29****Manufactured homes; industrialized residential structures**

Sec. 29. (a) As used in this section:

"Manufactured home" means a manufactured home as that term is defined in 42 U.S.C. 5402(6) as that statute was adopted and in effect on January 1, 1988.

"Industrialized residential structure" means a structure that is both an industrialized building system (as defined in IC 22-12-1-14) and a one (1) or two (2) family private residence.

(b) Sales of manufactured homes or industrialized residential structures are exempt from the state gross retail tax to the extent that the gross retail income from the sales is not attributable to the cost of materials used in manufacturing the manufactured home or industrialized residential structure.

(c) For purposes of this section, the part of the gross retail income not attributable to the cost of materials used in manufacturing a manufactured home or an industrialized residential structure is thirty-five percent (35%) of the gross retail income derived from the sale of the manufactured home or industrialized residential structure.

(d) The gross retail income derived from the sale of a preowned manufactured home is exempt from the state gross retail tax.

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.245-1987, SEC.7; P.L.86-1989, SEC.2.*

**IC 6-2.5-5-30****Environmental quality compliance; manufacturing, mining, or agriculture**

Sec. 30. Sales of tangible personal property are exempt from the state gross retail tax if:

(1) the property constitutes, is incorporated into, or is consumed in the operation of, a device, facility, or structure predominantly used and acquired for the purpose of complying with any state, local, or federal environmental quality statutes, regulations, or

standards; and

(2) the person acquiring the property is engaged in the business of manufacturing, processing, refining, mining, or agriculture.

The portion of the sales price of tangible personal property which is exempt from state gross retail and use taxes under this section equals the product of: (A) the total sales price; multiplied by (B) one hundred percent (100%).

*As added by Acts 1980, P.L.53, SEC.2. Amended by P.L.28-1997, SEC.9.*

### **IC 6-2.5-5-31**

#### **Free distribution newspaper; related transactions**

Sec. 31. (a) As used in this section, "free distribution newspaper" means any community newspaper, shopping paper, shoppers' consumer paper, pennysaver, shopping guide, town crier, dollar stretcher, or other similar publication which:

(1) is distributed to the public on a community-wide basis, free of charge;

(2) is published at stated intervals of at least once a month;

(3) has continuity as to title and general nature of content from issue to issue;

(4) does not constitute a book, either singly or when successive issues are put together;

(5) contains advertisements from numerous unrelated advertisers in each issue;

(6) contains news of general or community interest, community notices, or editorial commentary by different authors, in each issue; and

(7) is not owned by, or under the control of, the owners or lessees of a shopping center, a merchant's association, or a business that sells property or services (other than advertising) whose advertisements for their sales of property or services constitute the predominant advertising in the publication.

(b) The term "free distribution newspaper" does not include mail order catalogs or other catalogs, advertising fliers, travel brochures, house organs, theater programs, telephone directories, restaurant guides, shopping center advertising sheets, and similar publications.

(c) Transactions involving manufacturing machinery, tools and equipment, and other tangible personal property are exempt from the state gross retail tax if the person acquiring that property acquires it for his direct use, or for his direct consumption as a material to be consumed, in the direct production or publication of a free distribution newspaper, or for incorporation as a material part of a free distribution newspaper published by that person.

(d) Transactions involving a sale of a free distribution newspaper, or of printing services performed in publishing a free distribution newspaper, are exempt from the state gross retail tax if the purchaser is the publisher of the free distribution newspaper.

*As added by Acts 1981, P.L.80, SEC.2.*

**IC 6-2.5-5-32**

**Reserved**

**IC 6-2.5-5-33**

Tangible personal property purchased with food stamps

Sec. 33. Sales of tangible personal property purchased with food stamps are exempt from the state gross retail tax.

*As added by P.L.69-1986, SEC.1.*

**IC 6-2.5-5-34**

**Sale of lottery tickets; gross retail tax**

Sec. 34. Sales of lottery tickets authorized by IC 4-30 are exempt from the state gross retail tax.

*As added by P.L.341-1989(ss), SEC.8.*

**IC 6-2.5-5-35**

**Tangible personal property transactions**

Sec. 35. Transactions involving tangible personal property are exempt from the state gross retail tax if:

(1) the:

(A) person acquires the property to facilitate the service or consumption of food and food ingredients that is not exempted from the state gross retail tax under section 20 of this chapter; and

(B) property is:

(i) used, consumed, or removed in the service or consumption of the food and food ingredients; and

(ii) made unusable for further service or consumption of food and food ingredients after the property's first use for service or consumption of food and food ingredients; or

(2) the:

(A) person acquiring the property is engaged in the business of renting or furnishing rooms, lodgings, or accommodations in a commercial hotel, motel, inn, tourist camp, or tourist cabin; and

(B) the property acquired is:

(i) used up, removed, or otherwise consumed during the occupation of the rooms, lodgings, or accommodations by a guest; or

(ii) rendered nonreusable by the property's first use by a guest during the occupation of the rooms, lodgings, or accommodations.

*As added by P.L.43-1992, SEC.8. Amended by P.L.257-2003, SEC.29.*

**IC 6-2.5-5-36**

**Commercial printing contracts**

Sec. 36. Transactions involving tangible personal property acquired by a person that has contracted with a commercial printer for printing are exempt from the state gross retail tax, if the property

is acquired for use at the commercial printer's premises and the commercial printer could have acquired the property exempt from the state gross retail tax and use tax.

*As added by P.L.70-1993, SEC.3.*

#### **IC 6-2.5-5-37**

##### **Professional racing team engines and chassis**

Sec. 37. Transactions involving the following tangible personal property are exempt from the state gross retail tax:

- (1) Engines or chassis that are leased, owned, or operated by professional racing teams.
- (2) All spare, replacement, and rebuilding parts or components for the engines and chassis described in subdivision (1), excluding tires and accessories.

*As added by P.L.19-1994, SEC.6.*

#### **IC 6-2.5-5-38**

##### **Repealed**

*(Repealed by P.L.253-1997(ss), SEC.36.)*

#### **IC 6-2.5-5-38.1**

##### **Qualified computer equipment sales**

Sec. 38.1. (a) As used in this section, "service center" has the meaning set forth in IC 6-3.1-15-3.

(b) As used in this section, "school" means a public or private elementary or secondary school containing students in any grade from grade 1 through grade 12.

(c) As used in this chapter, "qualified computer equipment" has the meaning set forth in IC 6-3.1-15-2.

(d) Sales of qualified computer equipment are exempt from the state gross retail tax, if:

- (1) the seller is a service center or school;
- (2) the purchaser is a parent or guardian of a student who is enrolled in a school; and
- (3) the qualified computer equipment is sold to the parent or guardian under IC 6-3.1-15-12.

*As added by P.L.253-1997(ss), SEC.37.*

#### **IC 6-2.5-5-38.2**

##### **Vehicle lease transactions**

Sec. 38.2. The value of an owned vehicle is exempt from the Indiana gross retail tax in a vehicle lease transaction if the owned vehicle is exchanged for a like kind vehicle.

*As added by P.L.253-1997(ss), SEC.38.*